REMARKS

Claims 1-92 were rejected. Claims 1-74 have been canceled. Therefore, the rejections and objections concerning claims 1-74 are moot. Claim 75 has been amended. Accordingly, upon entry of this response, claims 75-92 will be pending in the application.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 75-92 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,814,947 to Brownell ("Brownell") in view of U.S. Patent No. 6,762,734 to Blotky et al. ("Blotky"). Applicant respectfully submits that claims 75-92 are allowable over the cited references for the reasons set forth below.

First, under M.P.E.P. § 715.02, an applicant "may overcome a 35 U.S.C. 103 rejection based on a combination of references by showing completion of the invention by applicant prior to the effective date of any of the references." As described in the attached declaration of the inventor Richard Rebh, Blotky has a priority date of June 15, 2001. Prior to June 15, 2001, the applicant conceived and reduced to practice an exemplary embodiment of the claimed invention. For example, as noted in the declaration, the applicant conceived and reduced to practice a FLOORanimator, which is an exemplary embodiment of claims 75-77, 81-87, 89-90. Therefore, Blotky is antedated by the applicant's invention and claims 75-77, 81-87, 89-90 should not be rejected as unpatentable over Brownell in view of Blotky.

Second, applicant respectfully submits that dependent claims 78-80, 88 and 91-92 are patentable over Brownell in view of Blotky because neither reference, either alone or in combination, discloses every claim limitation. Specifically, dependent claims 78-80, 88 and 91-92 all depend from independent claim 75 and therefore include "a floor display that conveys marketing information for a product that is proximal to the floor display." Neither Brownell nor Blotky teach a floor display, much less a floor display that "conveys marketing information for a product that is proximal to the floor display." Brownell specifies that the display or "lamp 8" is "mounted to a supporting surface such as a wall or mirror." (*Brownell* - column 3, lines 11-12). Blotky discloses a "beverage can, as well as containers for food stuff, household goods" and "plastic or glass bottles, cardboard or plastic boxes and other containers used for packaging and dispensing foods, household, and any other type of

products." (*Blotky* - column 1, lines 7-8; column 4, lines 63-67). Thus, Brownell and Blotky do not teach every limitation in claims 78-80, 88 and 91-92.

Finally, applicant respectfully submits that dependent claims 78-80, 88 and 91-92 are patentable over the combination of Brownell and Blotky for the additional reason that there is no motivation in either reference to combine. Section 103 requires a specific suggestion in the prior art to modify the reference or to combine reference teachings. *M.P.E.P. § 2143.* In other words, the mere fact that a reference can be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the combination. *M.P.E.P. § 2143.* Brownell and Blotky disclose a wall lamp and a product packaging display, respectively. Neither reference contemplates the use of a floor display at all. Therefore, there is no motivation to combine the references to form the claimed invention.

Accordingly, applicant respectfully requests the withdrawal of the rejection of claims 75-92 under 35 U.S.C. § 103(a) as being unpatentable over Brownell in view of Blotky.

Claim Rejections – Double Patenting

Claims 1-16 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of Application No. 09/965,962. The office action indicated that this provisional rejection may apply to other claims. Presently, Application No. 09/965,962 is under final rejection. Applicant requests that this rejection be withdrawn and then reinstated only if applicant files a response or an appeal for the 09/965,962 Application.

CONCLUSION

In view of the foregoing amendments and remarks, applicant respectfully submits that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact applicant's attorney, Michael J. Bonella, at (215) 564-8987.

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